



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**MAR 21 2013**

The McCourt-Broderick Limited Partnership  
c/o Mr. Austin Regolino  
The McCourt Company, Inc.  
9420 Wilshire Boulevard, Suite 300  
Beverly Hills, California 90212

Re: PCB Cleanup and Disposal Approval under §§ 761.61(a) and (c)  
Former Energy International, Inc.  
Boston Tax Assessor Parcel Number 06-2771-100  
South Boston, Massachusetts  
RTN: 3-29395

Dear Mr. Regolino:

This is in response to your Notification<sup>1</sup> to address PCB-contaminated soils on the property known as the former Energy International, Inc. parcel located on Cypher Street in South Boston, Massachusetts (the Site). Specifically, PCB-contamination exceeding the allowable concentration for unrestricted use is present in the soils at the Site. The Notification was submitted on behalf of the McCourt-Broderick Limited Partnership (McCourt-Broderick LP) by Haley & Aldrich in accordance with the requirements under 40 CFR §§ 761.61(a)(3) and (c).

In the Notification, you propose the following PCB cleanup and disposal activities:

- Remove PCB-contaminated soil with greater than (>) 1 part per million (ppm) and located within Area of concern (AOC) West A to a depth of 2 feet below ground surface (bgs);

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<sup>1</sup> Information was submitted on behalf of McCourt-Broderick LP to satisfy the notification requirements under 40 CFR §§ 761.61(a)(3) and (c). Information was provided dated October 2012 (Report on Self-Implementing Cleanup and Disposal Plan (SIP)); February 11, 2013 (contact information via email); February 13 and 14, 2013 (verification sampling clarification via email); and, March 19, 2013 (Subpart O verification sampling figure and locations via email). These submittals, together, will be referred to as the "Notification."

- Remove PCB-contaminated soil with > 1 ppm and located within AOC West B to a depth of 4 feet bgs;
- Remove PCB-contaminated soil with > 1 ppm and located within AOC East to a depth of 2 feet bgs;
- Dispose of PCB-contaminated soils with > 1 ppm but less than (<) 50 ppm in a state RCRA-permitted non-hazardous waste landfill in accordance with § 761.61(a)(5)(i)(B)(2)(ii); and,
- Collect post-excavation confirmatory sampling in accordance with Subpart O to document that the PCB cleanup standard of less than or equal to ( $\leq$ ) 1 ppm has been achieved.

With the exception of the soil characterization, the Notification meets the requirements under § 761.61(a). Based on the information provided and given the Site history, the Site characterization sampling, and the proposed removal plan, the PCB-impacted soils and concentrations appear to be adequately defined for purposes of cleanup and disposal. EPA finds that the alternative sampling will create no unreasonable risk to public health or the environment. EPA may approve the alternative sampling under § 761.61(c).

EPA is approving the Notification and you may proceed with the proposed PCB cleanup and disposal under 40 CFR §§ 761.61(a) and (c), the Notification, and this Approval subject to the conditions of Attachment 1.

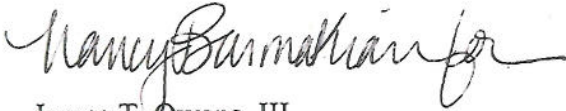
Please be aware that this Approval does not release McCourt-Broderick LP from any applicable requirements of federal, state or local law, including those requirements related to the cleanup of other [non-PCB] contaminants under the Massachusetts Department of Environmental Protection and the Massachusetts Contingency Plan.

Questions and correspondence concerning and/or required under this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100 (OSRR07-2)  
Boston, Massachusetts 02109-3912  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527

EPA shall not consider this project complete until it has received all submittals required under this Approval. Please be aware that upon EPA receipt and review of the submittals, EPA may request any additional information necessary to establish that the work has been completed in accordance with 40 CFR Part 761, the Notification, and this Approval.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Barmakian". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James T. Owens, III  
Director, Office of Site Remediation & Restoration

cc: C. Worthy, Haley & Aldrich  
MassDEP RTN: 3-29395  
File

Attachment 1: PCB Approval Conditions



**ATTACHMENT 1:**

**PCB CLEANUP AND DISPOSAL APPROVAL CONDITIONS  
FORMER ENERGY INTERNATIONAL PROPERTY  
BOSTON TAX ASSESSOR PARCEL NUMBER 06-2771-100  
CYPHER STREET  
SOUTH BOSTON, MASSACHUSETTS**

**GENERAL CONDITIONS**

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to *PCB remediation waste* located at the Site and identified in the Notification<sup>1</sup>. Specifically, this Approval applies to Areas of Concern (AOC) West A, AOC West B, and AOC East as shown on Figure 4 of the Notification.
2. The McCourt-Broderick Limited Partnership (Mccourt-Broderick LP) shall conduct on-site activities in accordance with the conditions of this Approval and with the Notification.
3. In the event that the cleanup plan described in the Notification differs from the conditions specified in this Approval, the conditions of this Approval shall govern.
4. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
5. The McCourt-Broderick LP must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill during response actions, the McCourt-Broderick LP shall contact EPA within 24 hours for direction on sampling and cleanup requirements.
6. The McCourt-Broderick LP is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time the McCourt-Broderick LP has or receives information indicating that it or any other person has failed, or may have failed, to comply with any provision of this Approval, the McCourt-Broderick LP must report the information to EPA in writing within 24 hours of having or receiving the information.

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<sup>1</sup> Information was submitted on behalf of McCourt-Broderick LP to satisfy the notification requirements under 40 CFR §§ 761.61(a)(3) and (c). Information was provided dated October 2012 (Report on Self-Implementing Cleanup and Disposal Plan (SIP)); February 11, 2013 (contact information via email); February 13 and 14, 2013 (verification sampling clarification via email); and, March 19, 2013 (Subpart O verification sampling figure and locations via email). These submittals, together, will be referred to as the "Notification."

7. This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by the McCourt-Broderick LP are authorized to conduct the activities set forth in the Notification. The McCourt-Broderick LP is responsible for ensuring that its selected transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.
8. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release the McCourt-Broderick LP from compliance with any applicable requirements of federal, state or local law; or 3) release the McCourt-Broderick LP from liability for, or otherwise resolve any violations of federal, state or local law.
9. Failure to comply with the Approval conditions specified herein shall constitute a violation of the requirements in § 761.50(a) to store or dispose of PCB waste in accordance with 40 CFR Part 761 Subpart D.

#### **NOTIFICATION AND CERTIFICATION CONDITIONS**

10. This Approval may be revoked if the EPA does not receive written notification from the McCourt-Broderick LP of its acceptance of the conditions of this Approval within 10 business days of receipt.
11. The McCourt-Broderick LP shall notify EPA in writing of the scheduled date of commencement of on-site activities at least 3 business days prior to conducting any work under this Approval.
12. Prior to initiating onsite work under this Approval, the following information shall be submitted to EPA for review and/or approval:
  - a. a certification signed by the selected analytical laboratory, stating that the laboratory has read and understands the analytical and quality assurance requirements specified in the Notification and in this Approval;
  - b. a contractor work plan, prepared and submitted by the selected remediation contractor(s) describing any air monitoring that will be employed during remedial activities and information on how and where wastes will be stored and disposed of, and on how field equipment will be decontaminated; and,
  - c. a certification signed by its selected remediation contractor, stating that the contractor has read and understands the Notification, and agrees to abide by the conditions specified in this Approval.



## CLEANUP AND DISPOSAL CONDITIONS

13. The cleanup level for *PCB remediation waste* at the Site shall be in accordance with 40 CFR § 761.61(a)(4) and shall be less than or equal to ( $\leq$ ) 1 part per million (ppm) PCBs to meet the requirements for a *high occupancy area* cleanup as described in the Notification.
  - a. Bulk *PCB remediation waste* (i.e., soil) samples shall be collected on a bulk basis (i.e., mg/Kg) and reported on a dry-weight basis.
    - i) Following excavation of the greater than ( $>$ ) 1 ppm PCB-contaminated soils, verification sampling shall be conducted to confirm that the  $\leq$  1 ppm PCB cleanup standard has been achieved. Sampling shall comply with Subpart O and samples will be collected from both excavation bottoms and from sidewalls. Bulk *PCB remediation waste* with  $>$  1 ppm but  $<$  50 ppm PCBs shall be disposed of in accordance with § 761.61(a)(5)(i)(B)(2)(ii) or § 761.61(a)(5)(i)(B)(2)(iii).
    - ii) Chemical extraction for PCBs shall be conducted using Methods 3500B/3540C of SW-846 for solid matrices and Method 3500B/3510C of SW-846 for aqueous matrices; and, chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another extraction and/or analytical method(s) is validated according to Subpart Q.
14. All PCB waste (regardless of concentration) generated as a result of the activities described in the Notification, excluding any decontaminated materials, shall be marked in accordance with § 761.40; stored in a manner prescribed in § 761.65; and, disposed of in accordance with § 761.61(a)(5), unless otherwise specified as follows:
  - a. Non-liquid cleaning materials, such as PPE and similar materials resulting from decontamination, shall be disposed of in accordance with 40 CFR § 761.79(g)(6).
  - b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).
  - c. PCB-contaminated water generated during decontamination or dewatering shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.70.

### **INSPECTION, MODIFICATION AND REVOCATION CONDITIONS**

15. The McCourt-Broderick LP shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by the McCourt-Broderick LP to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.
16. Any proposed modification(s) in the plan, specifications, or information in the Notification must be submitted to EPA no less than 14 calendar days prior to the proposed implementation of the change. Such proposed modifications will be subject to the procedures of 40 CFR § 761.61(a)(3)(ii).
17. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
18. Any misrepresentation or omission of any material fact in the Notification or in any records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.

### **RECORDKEEPING AND REPORTING CONDITIONS**

19. The McCourt-Broderick LP shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required under Subparts J and K. A written record of the decontamination and the analytical sampling shall be established and maintained by the McCourt-Broderick LP in one centralized location, until such time as EPA approves in writing a request for an alternative disposition of such records. All records shall be made available for inspection by authorized representatives of EPA.
20. The McCourt-Broderick LP shall submit a final report, both in hard copy and CD-ROM, to the EPA within 60 days of completion of the activities authorized under this Approval. At a minimum, this final report shall include: a short narrative of the project activities with photo log; characterization and confirmation sampling analytical results; copies of the accompanying chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCB waste disposed of and the size of the remediated area(s); copies of manifests; and copies of certificates of disposal or similar certifications issued by the disposer.

21. Required submittals shall be mailed to:

Kimberly N. Tisa, PCB Coordinator (OSRR07-2)  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100  
Boston, Massachusetts 02114-2023  
Telephone: (617) 918-1527 / Facsimile: (617) 918-0527

22. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self disclosure or penalty policies.

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**END OF ATTACHMENT 1**